

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

KENNETH DALE OOTEN,

Plaintiff,

v.

CIVIL ACTION NO. 3:18-1224

ANDREW SAUL, COMMISSIONER
OF SOCIAL SECURITY,¹

Defendant.

MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendations for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the Court dismiss Plaintiff's Complaint (ECF No. 2) without prejudice for failure to prosecute and remove this matter from the Court's docket. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

Accordingly, the Court accepts and incorporates herein the findings and recommendations of the Magistrate Judge and **DISMISSES** Plaintiff's Complaint (ECF No. 2) without prejudice for failure to prosecute and **REMOVES** this matter from the Court's docket, consistent with the findings and recommendations.

¹ Andrew Saul is now the Commissioner of Social Security and is automatically substituted as a party pursuant to Fed. R. Civ. P. 25(d). See also, Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g) (stating action survives regardless of any change in the person occupying the Office of the Commissioner of Social Security).

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: September 27, 2019

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE